IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7884 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Petitioner(s)
Versus
SHANKARBHAI KABHAIBHAI PARMAR - Respondent(s)

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Appearance :
MR IM PANDYA, ASSTT.GOVERNMENT PLEADER for Petitioner(s) : 1,
MR NR SHAHANI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 17/08/2007

ORAL JUDGMENT

Shri I.M. Pandya, learned Assistant Govt. Pleader for the petitioner; Shri N.R. Sahani, learned counsel for the respondent.

2. The petitioner-State Government is before this Court under Article 227 of the Constitution of India, challenging the exparte award dated 8.2.88, passed by the learned Labour Court, Nadiad in Reference [LCN] No. 319 of 1984 and the order dated 18.10.97 passed by the Labour Court, Nadiad in Misc. Civil Application No. 30 of 1988, rejecting the petitioner's application for setting aside the exparte award.

3. The respondent-workman came to the Court with a submission that with effect from 1.11.82, he was working as Canal Site Watchman and continued to work so up to 31.3.83 and, for the period between 1.4.83 to 18.10.83, he worked in the Nursery maintained by the Government. He submitted that his removal was contrary to law and as the removal was in violation of Section 25F of the Industrial Disputes Act, he was entitled to be reinstated.

4. After the notice, the State Government, as usual, did not care to do anything, it did not take part in the proceedings. The Competent Officers of the State Government chose to remain

out of the litigation, because, they were not alive to their duty or they were out to help the workman. The workman entered in the witness box and the proceedings went exparte, there was no cross-examination. Present petitioner did not lead any evidence. After appreciating the oral evidence and other circumstances, the learned Labour Court answered the Reference in favour of the workman vide award dated 8.2.88. The petitioner made an effort to come out of their hibernation, they filed an application for setting aside the exparte award but unfortunately, lethargy again required the petitioner and its Competent Officers to go in their slumber, nobody appeared before the Court after filing the application, nobody led any evidence, nobody proved sufficiency of the cause. The Court below, being absolutely frustrated by the conduct exhibited by the present petitioner dismissed the application seeking setting aside of the exparte award, therefore, the petitioner are now before this Court.

5. Unfortunately, instead of justifying their absence, the petitioner have filed an affidavit, submitting inter alia, that the respondent was happily engaged as an agriculturist and was carrying out agricultural operations. They did not care to see that they were required to satisfy the High Court that they had some sufficient cause in their case. When exparte decree or award is made or when a matter is dismissed in default, the party who has suffered is required to make an application either for restoration or for setting aside the exparte decree/award and, is required to satisfy the judicial conscience of the Court that there does exist sufficient cause for remaining absent on the date when the matter was taken up for hearing. “Sufficiency of cause” are not empty words, one is required to prove that the cause was sufficient in the eyes of the law and it had prevented the party from making its appearance in the Court.

6. The manner in which the matter has been conducted by the State Government and its

Competent Officers speaks volumes. If the State is not interested in protecting its own interest, then, the Court would never provide a protective umbrella to a person who is lethargic, careless and reckless.

7. The Court below was justified in rejecting the application in absence of the evidence to prove that there was sufficiency of cause and, was also justified in answering the Reference in favour of the respondent workman in absence of any material contrary to what was produced by the workman. I find no reason to interfere. The petition is dismissed. Rule is discharged. No costs. Interim relief, if any, is vacated.

[R.S. GARG, J.]

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